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Book Review

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Book Review

CITY LAWYER. By Arthur Garfield Hays. New York. Simon and Schuster, 1942. Pp. 482.

To Voltaire we attribute most often the by now time worn bromide "that I may not agree with what you say but I will defend to the end your right to say it." To Hays must go our plaudits for making of this philosophy a success and for making of it the ethos of the most important facet of his many sided law practice. One who is familiar with the currents, with the shifting tides of the past twenty years, and with the men who affected the meanderings of the waters cannot read this "Autobiography of a Law Practice" without amazement, interest, and an increased appreciation of the value of paradox in living as well as in writing and in other fields. Webster says of paradox that it is "a tenet contrary to received opinions". If a man's life can be conceived as a tenet, Hays stands forth as the law's candidate for the leading paradox, as a man whose interests and point of view belie and are contrary to received opinions. That the real man and his kaleidoscopic practice are often so diametric in ends sought, and ideals held, is a tribute to his standing, his honesty, and undeniable proof that democracy works. He is a real man. And may the reviewer be permitted to say that he likes, and likes much, the man who lives and wanders through the pages and between the covers of this book.

To Hays the hypostasis of democracy is the individual. The reviewer likes that. In these crucial days when the issue of life or death is drawn in terms of ideologies, in terms of a way of life as opposed to a way of degeneration and utter barbarism, the book gives comfort in that it is the success story of a man who lived democracy, who helped make it work in many of its small and component parts and in some of its outstanding struggles. The author states his attitude toward individual liberty in these words "I'd be miserable if I didn't have some case in the office that involved liberty in some form or another, whether it is the liberty of a businessman to conduct his business without undue governmental interference or the liberty of a despised radical to speak his mind about the way business is conducted in this country."¹

¹ Foreword, p. xi.

To most of us, familiar in some way with the name Hays, there is associated with him a long line of Franks, of Scottsboro boys, of Mayor Hagues, of I.W.W.'s, of reds, pinks, and the phantasmagoria that makes up the politically, socially, and economically oppressed, the radicals, and yes, even the lunatic fringe. To find that the man is just as comfortable in Wall Street (perhaps more so), to find that in this day and age he can locate a respectable "House" on "The Street" and respectable players of the game, to find that he shares with vehemence much of the ideas of the whilom Liberty League, much of the antipathy toward the New Deal agencies,² to find that he plays the game of the robber barons with rugged individualism, to find that he sits in the inner councils of "big business" is almost unbelievable, and, at the same time, a pleasant shock. Before the appearance of this book there were few who knew of this aspect of the Hays personality and of the Hays law practice. To quote the song writers, "the wonder of it all." At the same time it is viable democracy—it is true eighteenth century liberalism, it is true "John Stuart Millism," in short it is the real meaning of the Constitution. That document constitutes the framework of a certain economic orientation. It was the product of men who believed in a way of life, of men who read Adam Smith and Ricardo and prepared an organic law that would reflect the "natural laws" which govern the pursuits of an economy, which govern the individual's struggle to make a living. The most important motivation in society, recognized by the Constitution, is the right of property and the enjoyment of the fruits therefrom. Hays is strong in his dislike of any system, or any "ism". He is equally strong, however, in his belief in property and the profit motive. Without the right to pursue profits Hays sees the spice taken from our society and the impelling logic taken from progress. Whatever the way of life it must respect the individual's liberty to possess property and enjoy its fruits.

Paralleling the individual's freedom in economic pursuit is the freedom to be private, to be unafraid, to be without want, to speak his opinion, to write his thoughts, to pursue his faith, to "have his body". These rights were also a part of that "natural law" which appeared in the Constitution. Hays, in this respect, is the unqualified heir of the men who wrote these rights into the Bill of Rights

² Especially is he vehement against the Securities and Exchange Commission, pp. 118-120.

and whose spirit and philosophy stands engrossed on the Debates and burned into the books that endure for all time. *Laissez-faire* is, perhaps, a synonym for Hays' attitude toward organized society's attempts to regulate or inhibit the individual. Society, perhaps, should undertake to create for each individual the opportunity to succeed. Society must not underwrite that success or stand as surety therefor. In society's attempts to create the opportunities and do away with economic destitution it must recognize the liberties of all, and especially of the "haves" as opposed to the "have nots". This does not presuppose privilege for anyone or class. Hays hates privilege as such. At the same time to possess property and wealth is no sin. There is no premium in being a "have not".

Hays is a man of strong opinions strongly held. The reviewer likes this. Here is a real man. One of the blessed few who has the courage of convictions and the strength to state and act upon them. With it all Hays is most human. There is no apotheosis. He has made many errors; has, at times, acted upon emotion and not upon reason; has, at times, admitted to contradictions and inconsistencies; has lost cases; has been hesitant, at times; has not known what to do, at times; and has made and lost money. Essentially he impresses the reader with the innate and unimpeached dignity of an honest and simple man. This is magnificently portrayed in the final chapter of the book entitled "Our Kind". The essence is that his kind are decent people and to quote him "I picture our kind chiefly as men of good will". One does not need to be Abou-ben-Adhem to ask can anyone desire more!

Hays is not confounded by prevailing shibboleths. The reviewer likes that. Hays is eminently practical and frank. His recognition of the components of success in a law practice is realistic.³ He is one of the few men unafraid to confess the fact that he has made money and is a man of wealth.⁴ He is unabashed in his estimate of men.⁵ Finally he is quite frank in a statement of his domestic affairs. Rarely is one able to read an autobiography and find therein such humaness, such frankness, and such honesty in confessing the conflicting tugs that pull at one in moments of decision.

³ Pp. 32, 33.

⁴ Conclusion on the Wendell will case, p. 336.

⁵ William J. Fallon, "The Great Mouthpiece", pp. 112-115; and "Sam" Untermyer, pp. 300-301.

The book is interesting and exciting. It is chock-full of rare incidents and cases. You are taken behind the scenes and allowed to look into the inner operations of "big-stuff" and "big deals". Hays had his finger in so many pies and in so many big and important ones. The purpose of the book is to narrate the story of a law practice and of a lawyer. It does that to a T. Important men of the times greet you on every page. You listen to their conversation, you see their rôles in big events. You watch some of history unfold, you get a better grasp of the realities of life, of those things that make the wheels go round.

Throughout the book and especially in the last chapter Hays delivers himself of his philosophy of life, of his *lebensanschauung*. It is fertile and compelling. The book differs from Stone's biography of Darrow⁶ in that Hays does not pose as the basic thinker, as the mental incubator of any systems of thought or attitudes toward life in general. He is possessed of his own convictions, he has read much and made of his reading an intelligent whole. The book reflects, in toto, a consistent life, the growth and march of a man who governs himself with an ethics that is admirable, who believes in democracy, who lives and lets live.

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⁶ Reviewed by the present reviewer (1942) 6 Md. L. Rev. 191.

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